

Beyond Measure: Implicating Law Reviews and Author Rankings in Low Impact Factors in Legal Scholarship

Valeri Craigle, MLS

The production of legal scholarship, a critical component of any legal scholar's professional portfolio, involves long hours of research, writing, and collaboration with colleagues. Aside from the pure pleasure of writing, which many legal scholars purport to experience¹, there are a number of reasons authors engage in legal scholarship, not the least of which is the pursuit of tenure and the building of a prestigious reputation among one's peers². Regardless of their motives, legal scholars by and large like to see their work recognized for its impact in their respective fields of expertise. Even better is evidence of broad impact of one's work across scholarly disciplines. But how can the scholarship produced by those in the legal academy be impactful when law reviews themselves, the primary vehicle for the dissemination of legal scholarship, have proven to be so unimpactful, not just within the legal academy, but across academic disciplines³? Moreover, how can the academy better recognize and encourage legal scholars who choose to pursue non-traditional publishing practices with a rankings system that adequately reflects the impact of their work in a rapidly changing scholarly environment?

This paper argues that the current author rankings system, along with the legal academy's fixation on a deeply flawed law review publishing system as the sole vehicle by which legal scholars can assert scholarly influence, not only obscures the scope and value of legal scholarship in the current milieu, but also discourages the pursuit of innovative scholarly practices that could increase the impact of legal scholarship across the spectrum.

The Current Legal Scholar Rankings System

Every spring, US News publishes its rankings of law schools – a major event, particularly for schools hoping to see their rankings increase, or fearing a drop in their school's ranking. Every three years, Gregory Sisk and colleagues at the University of St. Thomas, Minnesota, release their rankings of law faculties, which measures the scholarly impact of faculty from the top 100 law schools across the

¹ Jeena Choy, *THE JOY OF MINDFULLY WRITING ABOVE THE LAW* (2019), <https://abovethelaw.com/2018/04/the-joy-of-mindfully-writing/> (last visited Jun 17, 2019).

² Lisa Hackett, *Undersanding Law Review Success: An Analysis of Factors that Impact Citation Counts*, *MASTERS THESEIS* (2013), *An Analysis of Factors that Impact Citation Counts* (last visited Jun 17, 2019).

³ *Id.*

country⁴. Scores for each school are listed and ranked accordingly. Called the Scholarly Impact Score, the Leiter Score, or the Leiter-Sisk Ranking, these faculty scholarship rankings are announced on professor Brian Leiter's blog when the final tallies have been reached.

The Leiter Score counts the last five years of an author's citations to articles published in Westlaw's database. A search strategy using the phrase, TE(authorfirst /2 authorlast) and DATE(aft year) and DATE(bef year), is entered into Westlaw's Law Journals database and each author's citation counts are calculated to produce an individual score. Individual scores are combined with the scores of other tenured faculty at the author's institution, added together, and a weighted score is produced by taking the mean number of citations times two plus the median number, to equal the final weighted score

The public release of the Leiter-Sisk rankings causes an inordinate amount of angst among faculty and law school administrators. Highly ranked law schools, particularly those in the top five, rarely budge from their positions in the scholarship hierarchy, as the factors that keep them there, i.e., status and reputation, generally remain unchanged from year to year⁵. Indeed, there is a general consensus within the legal academy that the status bias inherent in law school rankings is real, and plays a major role in journal and author rankings as well⁶. The schools with faculties that perform below the top five, can potentially lose or gain anywhere from a few to several positions on the scale each cycle. These schools suffer the most anxiety, yet no one seems to be able to identify the factors at play in these changes of position.

The natural reaction from faculty at schools below, or barely hovering in the top ten, is to investigate ways in which they can increase their citation counts and raise their rankings for the next cycle. However, it is becoming increasingly apparent that the legal scholarship rankings system operates in such a way that authors at lower ranked schools have little chance of increasing citation counts to their law review articles because the system is designed to reward authors at highly ranked schools. How so? The top five law schools also happen to host the top 5 law reviews. These top schools/journals have generally maintained their positions in the top tier, give or take one or two position adjustments over the years. In a study of journal citation

⁴ Gregory C. Sisk et al., *Scholarly Impact of Law School Faculties in 2018: Updating the Leiter Score Ranking for the Top Third*, 95 UNIVERSITY OF ST. THOMAS LAW JOURNAL (2018), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3230371##.

⁵ Albert H. Yoon, *Editorial Bias in Legal Academia*, 5 JOURNAL OF LEGAL ANALYSIS 309–338 (2013).

⁶ Ann Althouse, *A LOOK INSIDE THE LAW REVIEW SAUSAGE FACTORY*, <https://abovethelaw.com/2012/09/a-look-inside-the-law-review-sausage-factory-and-possible-evidence-of-bias-against-conservatives/> (last visited Jun 17, 2019).

counts in 1976⁷, the top three law reviews at that time, Harvard, Yale, and Columbia Law Review (which happen to be the top three law reviews currently) accounted for about twenty percent of citations. Today, eighty-percent of the articles published in these top three journals are authored by these schools' alumni⁸. Those familiar with the law review editing process know that top law reviews give preference to articles authored by their own faculty and by faculty with prestigious reputations and top law school affiliations. It's not difficult to spot the hegemony in this picture.

Paradoxically, scholarly rankings for law are based solely on law review citation counts, so faculty continue to chase the law review publishing cycle in hopes of improving their rankings. But faculties at schools ranked below the top ten have little hope of improving their citation counts for the aforementioned reasons. Yet they still must publish their work in law reviews because the current rankings system leaves them with no other choice. It is quite the catch 22.

Law Reviews: A Brief Critique

In his article, "Picking Spinach", Anthony Michael Kreis describes law reviews as the "currency of the legal academy" and as such are "a central factor in the decision-making process to hire, promote, and tenure law professors"⁹. The fact that law reviews play such a critical role in the professional advancement of legal academicians severely complicates efforts toward innovating away from this outdated system. Criticism of law reviews and the law review publishing system is practically as old as the legal academy itself¹⁰. Numerous authors have expressed their discontent¹¹, ironically publishing their complaints in lengthy, heavily footnoted law review articles. As law faculty become more interdisciplinary and have become sophisticated in the ways of the web and social media platforms, they have gained new insights into the publishing practices of their colleagues in the science and medical fields. Some may question why the citation counts to their law review articles are so dismal in comparison to their colleagues who are publishing in science, technology, and medical (STM) journals.

⁷ Olavi Maru, *Measuring the Impact of Legal Periodicals*, 1 AMERICAN BAR FOUNDATION RESEARCH JOURNAL 227-249 (1976).

⁸ LawProfBlawg, *LAW REVIEWS AND THE SELF-FULFILLING PROPHECY* (2019), <https://abovethelaw.com/2019/02/law-reviews-and-the-self-fulfilling-prophecy/> (last visited Jun 12, 2019).

⁹ Anthony Michael Kreis, *Picking Spinach*, 50 LOYOLA LAW JOURNAL (2019), [https://www.luc.edu/media/lucedu/law/students/publications/llj/pdfs/vol50/issue-2/11_Kreis%20\(395-402\).pdf](https://www.luc.edu/media/lucedu/law/students/publications/llj/pdfs/vol50/issue-2/11_Kreis%20(395-402).pdf).

¹⁰ Fred Rodell, *Goodbye to Law Reviews*.

¹¹ Richard A. Wise et al., *Do Law Reviews Need Reform? A Survey of Law Professors, Student Editors, Attorneys, and Judges*, 59 LOYOLA LAW REVIEW 1-75 (2013).

In an effort to avoid unnecessary repetition on the subject, lengthy criticism will not be offered here. Yet the predominate concerns of those offering critiques on the law review publishing system must be identified and examined in greater depth. Of the many discussions in the legal literature and on social media regarding the future of legal scholarship, a handful of issues have emerged as the most critical to address. Chief among these concerns are; the absence of peer review in student-edited journals, the length of law review articles; the time it takes from submission to publication, and the broader issue of inherent bias in the legal scholarship rankings system. Of paramount concern is the legal academy's tendency to value peer reputation and elitism above all else in measuring law schools and their faculties.

The lack of peer-review has resulted in a credibility problem for law reviews that affects the scale and frequency by which researchers read and cite to them¹². The law review editorial process is very different from that of any other discipline. In few fields is it acceptable to submit a manuscript to 50 or even 100 journals at a time and expect an offer of publication within hour or days. No major medical journal would use the prestige of an author's home institution, or CV credentials as a first consideration in choosing works to publish. With editorial decisions squarely in the hands of second and third year law students, who may or may not be equipped to adequately judge the veracity of a law review article's content and assertions, quality review is sacrificed for an expedited process in which students must deal with high-pressure deadlines and crushing law school schedules.

The pressure to increase a journal's prestige, coupled with the rigors of law school have led to the development of a strategic process whereby student editors prioritize the acceptance of articles by highly-cited authors to increase the citation counts and rankings for their journals. In essence, it is the same Sisyphean exercise in citation chasing as that of the author from the low ranked school still submitting to law reviews in hopes of better scholarly rankings. The student-editorial model perpetuates this cycle. Peer-reviewed journals outside of law are generally blind to the prestige of an author's home institution, or CV credentials. It is deemed unethical to use such information as a first consideration in choosing works to publish. Yet it has become an acceptable, even expected practice for student editors at top law reviews to eschew submissions from authors with lower citation numbers, regardless of the quality of their submission, in order to simplify their process and garner higher journal rankings.

A more rigorous approach to the law review editorial process, which favors quality of scholarship over the perpetuation of prestige, is in order. Peer review, though not perfect by any means, would nevertheless improve the credibility factor for law reviews, and perhaps increase their citation counts. Entrusting the editorial process

¹² Susan Haack, *Peer Review and Publication: Lessons for Lawyers*, 36 STETSON LAW REVIEW.

to experts in their respective fields of expertise, would imbue law reviews with a certain relevance and integrity not found in the current system¹³.

Journal Impact Factor: A Disciplinary Comparison

It is not difficult to understand why legal scholars would feel compelled to publish in law reviews almost exclusively. Citation counts to faculty-authored articles in law reviews form the sole data point for measuring the impact of legal scholarship, despite the fact that legal scholarship can be found in a multitude of publications and formats. This is why, as compared with citation numbers for faculty in science and medical disciplines, which take into account a whole range of publishing activity, legal scholars come out on the low end of the scale.

Results of a recent citation analysis comparing the scholarly influence of a number of disciplines in the health sciences, engineering, and behavioral sciences, showed that legal scholarship ranked 137 out of 236 for scholarly impact¹⁴. According to the study, law performed worse than topics in forestry, ceramics materials, and fisheries.

In addition to facilitating the ranking of scholars themselves, citation counts are also used to rank the impact of academic journals. “Impact Factor” is a term not generally used in legal publishing, but it is the term of art for what measures the value and influence of journals in the other academic disciplines.

Impact factor is a measure of the frequency with which the “average article” in a journal has been cited in a particular year or period and is calculated by dividing the number of current year citations to the source items published in that journal during the previous two years (Wikipedia). Citation evaluation services, such as Web of Science (WoS) and Journal Citation Reports (JCR) calculate impact factors for law reviews, though the legal community rarely utilizes their results¹⁵.

Currently, the ranking system for legal journals most widely accepted by the legal community is Washington & Lee’s Law Journal Rankings¹⁶. A new journals ranking system, designed by Bryce Clayton Newell, creates a meta-ranking of law journals, which combines US News Overall Ranking, US News Peer Reputation Ranking, W&L Combined Ranking, and Google Scholar Metrics. The purpose of the meta-ranking is

¹³ Quality and Value: The Purpose of Peer Review, (2006), 10.1038/nature05032.

¹⁴ Gregory S. Patience et al., *Citation Analysis of Scientific Categories*, 3 HELIYON (2017).

¹⁵ Lawprofblawg, LAW REVIEW RANKINGS AS A PROXIES FOR QUALITY ABOVE THE LAW, <https://abovethelaw.com/2018/02/law-review-rankings-as-proxies-for-quality/> (last visited Jun 17, 2019).

¹⁶ *Id.*

to gauge the relative importance of journals and offers (<http://bcnewell.com/meta-ranking-of-flagship-us-law-reviews-2018/>).

In a departure from the way citation evaluation services operate - vis a vis investigating citation counts as broadly as possible across multiple databases with thousands of journal titles - W&L searches only Westlaw's Law Journal database to obtain citation counts, collecting citation numbers over an eight year time period. The W&L law review rankings serve the legal academy in a number of ways. Legal scholars refer to them when deciding where to place their articles during law review submission cycles. Highly ranked law reviews use W&L's numbers to tout the status of their journals and thus the prestige of their schools.

Regardless of whether a law review receives a high ranking from W&L, the reality is that even highly ranked law reviews generally have exceedingly low impact factors in comparison to other academic disciplines. According to Journal Citation Reports, only seven of the top 150 law reviews had impact factors above 3.0, which means that only seven journals contained articles that received more than 3 citations in 3 years¹⁷. In addition, only the top twenty law journals have impact factors above 2.0. This means that, according to JCR, the vast majority of law review articles are cited less than twice in three years.

Academic journals in other disciplines suffer from low citation counts as well. Journals in the social sciences and humanities perform just as poorly or worse than law journals, with fewer publications overall, and impact factors that are on par, or below those of Law reviews. As authors within a social sciences and/or humanities discipline, legal scholars with an interest in broadening their horizons beyond law review publishing have multiple opportunities to publish in journals with much higher impact factors such as publications focusing on Environmental Studies (impact factor: 19); Behavioral Studies (impact factor: 15), and Energy and Fuels (Impact factor: 46).

It is becoming more common for legal scholars to publish articles on topics beyond law, and this trend toward multidisciplinary is moving upward¹⁸. A legal scholar with expertise in environmental law, criminal law, international law, or science/medical law can choose from hundreds of high-impact journals in energy law, environmental studies, legal medicine, or communication studies. However, there is a reticence to expand into new publishing realms and understandably so, as law reviews form the only means by which their scholarship is currently measured and recognized. This approach to evaluating legal scholarship, its authors, and the institutions with which authors and journals are affiliated has led directly to an absence of legal voices and perspectives in the scholarly record as a whole.

¹⁷ Web of Science Statistics : JCR, .

¹⁸ Stephen P. Buss, *Do We Still Need Reference Services in the Age of Google and Wikipedia?*, 57 THE REFERENCE LIBRARIAN 265-271 (2016).

Factors Affecting Scholarly Influence

The relative obscurity of law reviews in the grander scheme of academic scholarship is only one factor affecting the influence, or lack thereof, of legal scholarship. In the sciences, influential scholarship is correlated with a number of factors. In a study of the factors affecting citation counts to papers, Tahamtan, et al.,¹⁹ found that higher citation numbers are influenced by the quality of a paper, novelty of the subject, and field of study. Journal-related factors predictive of high citation counts include, the journals' impact factor, language, and scope. Author factors are heavily reliant on reputation, rank, and institutional affiliation. A major factor mentioned in Tahamtan's article, and one worth noting, is how collaboration with other authors and those author's respective rankings leads to substantially higher citation counts.

How do law reviews measure up with other academic disciplines in a comparison of influential factors? In reality, it is a difficult comparison to make. A quality paper in the sciences contains solid methods, built on a good study design, and a clear hypothesis. Decisions on quality are made through the process of peer-review and, after publication, citation counts. A quality law review article focuses on a novel claim, supported by facts and doctrines, held together by a persuasive argument²⁰. Student-run editorial boards are generally not considered to be good judges of quality content, as they lack the expertise. Quality is generally measured by download and citation counts.

The impact factor of the journal where an article is placed, as a predictor of higher citation numbers, benefits those in science and medicine significantly more than legal scholars, who are at an impact factor disadvantage across the board. Medical and science journals have a significantly broader readership base. The scientific literature is discoverable in hundreds of databases used by researchers on college campuses, at private companies, and in international repositories. Law review readership is generally limited to law school alumni and legal practitioners. Even among practitioners their use is limited²¹. Law review content is not indexed in large research databases, which means that researchers doing research on topics won't see law review content in their results sets. Those wishing to search the legal scholarship are locked out of expensive subscriptions meant only for law school or law firm communities. Limited access to the legal literature in research databases only exacerbates the problem of law readership.

Reputation as a predictor of scholarly success is a factor that applies to scholarship across the board. The insular nature of legal scholarship, however, disadvantages

¹⁹ EUGENE VOLOKH, *WRITING: LAW REVIEW ARTICLES, STUDENT NOTES, SEMINAR PAPERS, AND GETTING ON LAW REVIEW* (3rd ed. 2007).

²⁰ *Id.*

²¹ Adam Liptak, *When Rendering Decisions, Judges are Finding Law Reviews Irrelevant*, *NEW YORK TIMES*, 2007.

those wishing to author papers outside of law reviews, as legal scholars will be unknown to editorial boards reviewing submissions journals in the sciences or medical fields. The legal scholars who have built excellent reputations for themselves, but only within the confines of the legal community, will need to find co-authors outside of law with scholarly cachet if they are to be successful publishing outside of the law review community.

Collaborative partnerships are also a factor in increasing citation counts, according to Tahamtan. Legal scholars partnering with scholars in the sciences who share similar interests is becoming more commonplace²². Legal scholars with a focus on criminology can partner with statisticians running numbers on gun violence statistics; A law professor and adjunct in a health sciences department partners with radiologists to publish an article in the Journal of the American Medical Association to report findings of the relationship of brain scans and criminal behavior. A law professor with an expertise in patents partners with a researcher in a high-profile genetics lab and they both submits an article to highly ranked genetics journals. These are just a few of the ways that legal scholars can overcome the reputational barriers to publishing outside of the legal world.

Collaboration as a method for increasing the impact of one's work is not common in legal academe. The tradition of the "Solitary Scholar" persists in legal institutions.²³ In his article on the subject, Michael Meyerson laments the lack of co-authorship as "not a significant part of the academic tradition" in law school culture²⁴. Legal scholars tend to view well-placed, single-authored law review articles as the "gold coin of the realm"²⁵ in terms of garnering influence and prestige for one's work. However, a study on the importance of teams in increasing the impact of legal scholarship directly challenges this assertion²⁶. Of over 19,000 law reviews, Cotropia & Petherbridge, the authors of the study, found that articles with coauthors are more frequently cited and produce "exceptionally high-impact research.

Legal Scholarship's Muted Impact

²² John McEldowney & Sharron McEldowney, *Science and Environmental Law: Collaboration Across the Double Helix*, ENVIRONMENTAL LAW REVIEW.

²³ Olavi Maru, *supra* note 7.

²⁴ Michael I. Meyerson, *Law School Culture and the Lost Art of Collaboration: Why Don't Law Professors Play Well with Others?*, 93 NEBRASKA LAW REVIEW (2015), <https://digitalcommons.unl.edu/nlr/vol93/iss3/2/> (last visited Jun 10, 2019).

²⁵ Benjamin P. Edwards, PRAWFSBLAWG: CO-AUTHORING AND ESSAYS IN THE LEGAL ACADEMY (2016), <https://prawfsblawg.blogs.com/prawfsblawg/2016/08/co-authoring-essays-in-the-legal-academy.html> (last visited Jun 10, 2019).

²⁶ Christopher A. Cotropia & Lee Petherbridge, *The Dominance of Teams in the Production of Legal Knowledge*, 124 THE YALE LAW JOURNAL FORUM 18 (2014).

Publishing in higher impact journals outside of law reviews would amplify the voices of legal scholars by broadening the visibility and dissemination of their work. The legal literature contains a multitude of timely, highly relevant content that will never be read outside the legal community. Well-written, engaging articles on gun control, crypto currency, and marijuana legislation are essentially invisible to other researchers because as non-peer-reviewed journals, law reviews are not perceived to be reliable sources for research. Additionally, they are not indexed in many of the standard databases used in multi-disciplinary research. Conversely, few journals from disciplines outside of law are discoverable in Westlaw, Lexis, or Heinonline. As a source for research, legal scholarship has become truly insular in an otherwise highly connected scholarly ecosystem.

Laura Webb, professor of legal writing at the University of Richmond, has stated that the purpose of legal writing is simply to “educate the reader about a subject”²⁷. In law review articles, educating the layperson takes the form of an exhaustive analysis covering multiple aspects of a legal issue to the tune of sixty to eighty pages of narrative, and dozens of lengthy footnotes. Some studies have shown that the longer law review articles are more likely to be accepted for publication and are cited more frequently²⁸. However, many in the legal academy are calling for a requirement to shorten articles. Some top law reviews have already reduced their word requirements, even refusing to accept manuscripts that don’t adhere to their policies. Regardless of the calls for more brevity, legal scholars, from their earliest years in the profession, are taught to write lengthy narratives, heavy on legal theory and rhetoric and are unlikely to change these practices anytime soon.

Though many prestigious, widely read journals would welcome the voices of legal scholars, there is reluctance on the part of scholars to publish in them, out of fear of losing citation counts in the Leiter-Sisk rankings. Law school promotion and tenure standards explicitly instruct faculty to publish in law reviews. A quick search on the web will produce tenure committee documents outlining policies and procedures calling for the publishing of at least five law review articles in order to meet the standard requirement for tenure. Non-law journal publishing is discouraged based on the reasoning that only law reviews offer the opportunity for in-depth discussion and lacks the citation style and thoroughly written footnotes valued by other legal scholars in their own research. Along with a fear of losing citation counts, the perception that non-law review publishing discourages in-depth discussion and diminishes the value of citation perpetuates the very law review publishing system that people are so unsatisfied with.

Legal scholars entrenched in the law review writing style may find it difficult to write for non-law publications. For example, *Nature*, an international journal of

²⁷ Laura A. Webb, *Why Legal Writers Should Think Like Teachers*, 67 JOURNAL OF LEGAL EDUCATION 315–337 (2017).

²⁸ Fred Shapiro & Michelle Pearse, *The Most Cited Law Review Articles of All Time*, MICHIGAN LAW REVIEW.

science and one of the most highly ranked journals in the world, caps its article word limit to 3,000 words and only allows 500 words of referenced text (nature). *Environment International*, a journal with an impact factor almost double that of the Yale Law Review, and one that an environmentally-focused legal scholar may look to as an alternative to a much lower ranked environmental journal, strongly advises a text length of 8,000 words and “brevity is encouraged”²⁹.

The contributions of legal scholars to other disciplines, through their journals, have the potential to positively impact both the scholar and the discipline they are contributing their knowledge to. But legal writing and publishing are so dependent on the law review style that many legal scholars find it difficult to break from the mold and find themselves stuck in the perpetual law review loop.

Reform

Reforming Legal Scholarship Ranking Methodologies

Despite being widely adopted, the Sisk-Leiter rankings have their limitations. Scrutiny over these rankings has only increased as scholars become aware of the reach of their scholarly impact beyond law reviews. Legal scholars are looking for a better set of metrics that will judge the impact of their scholarship more holistically. Some have argued that Google Scholar offers a more comprehensive set of tools for discovering scholarly works, while also offering metrics that look at productivity and impact in one score, the h-index. The h-index, or Hirsch number, named for Jorge E. Hirsch, a physicist at UC San Diego who created it in 2005, “is an author-level metric that measures both the productivity and citation impact of the publications of a scholar. The index is based on the set of the scientist's most cited papers and the number of citations that they have received in other publications. The index can also be applied to the productivity and impact of a scholarly journal, as well as a group of scientists, such as a department or university or country”³⁰. Data experts with an understanding of how legal scholarship is measured could work with Google developers on h-index metrics to create an algorithm specifically tailored for the legal academy that searches multiple sources and that addresses some common issues already identified as problematic for citation counts such as self-citation, name variants, and shoddy metadata associated with law reviews and legal scholar online profiles.

In addition to developing more holistic bibliometrics using Google Scholar, incorporating altmetrics, an alternative method for measuring a scholar’s impact in

²⁹ Elsevier, ENVIRONMENT INTERNATIONAL: GUIDE FOR AUTHORS, <https://www.elsevier.com/journals/environment-international/0160-4120/guide-for-authors#25000> (last visited Jun 17, 2019).

³⁰ Tyler Rosenbaum, *Law Reviews and the Students Who Run Them*.

alternative publishing platforms such as social media, news sites, and blog postings, would provide an even broader range of information about how scholarship is being used and referenced in many different forms. Instead of waiting for a year or more for a law review article to be published, altmetrics allows authors to see how others are reacting to their work on Facebook, Twitter, and on blog sites. These innovative communications tools have increased a scholar's ability to share, react, and learn from the work of their colleagues and as such should be mined for their data as a means to better understand the influence of a scholar's work.

Reforming Law Reviews

Despite their limitations as a scholarly platform for legal writers, law reviews and the schools that host them, offer critical education in legal reading and writing skills for second and third year law students. Through law review, students gain first-hand experience in critical thinking and organizational skills, and have numerous opportunities to work one-on-one with faculty authors. Law review, as an educational program maintains support throughout the law school community³¹. It is the current state of law reviews as a scholarly platform and the academy's fixation on law reviews as the primary platform for legal scholars that are becoming the focus of criticism and calls for reform.

Many conversations are taking place online and face-to-face at conferences focusing on the future of legal scholarship about either reforming law reviews to serve the interests of authors, or helping authors find publishing alternatives altogether. The legal scholarship rankings system stalls progress on the "leaving law reviews" conversation primarily because Sisk-Leiter continue to use citations to law reviews as their sole source of data for their rankings. Sisk-Leiter have addressed this criticism in the past by saying that all law schools have faculties who will publish prolifically elsewhere, and if their scholarship is important enough to legal researchers, it will make its way into law reviews citations³². But as mentioned earlier in this article, non-law literature, i.e., traditional journals and monographs, are not indexed in the databases that legal researchers use the most, so how do legal scholars publishing outside of law reviews make their work visible, and thus have an impact, with these researchers? The Sisk-Leiter rankings do not favor authors who choose to expand their creative talents outside of the legal publishing model generally. An additional burden on authors is the five-year citation count window Leiter-Sisk employs, which disadvantages authors of books and book chapters, as these works go to market at a much slower pace than law review articles and may not even start to receive citations until they have been on the market for years.

If law reviews are to be reformed to serve the interests of authors, many in the legal academy agree that offering peer-review is the only way to address the various

³¹ *Id.*

³² Quality and Value: The Purpose of Peer Review, *supra* note 13.

issues inherent in the system³³. Students would no longer make editorial decisions, but would rather assist in administrative tasks, light editing, and citation checking. Faculty with an expertise in the topics being covered in a particular law review issue would decide whether to accept or reject articles based on their merits. Blind review would be the standard. This approach would drastically alter the way in which law reviews have been traditionally run, but law reviews would gain some legitimacy through blind peer-review and authors would have greater opportunities to earn placements in top journals when they create excellent scholarship.

Reforming the Legal Scholar

Legal scholars often complain about law reviews and how uncredible and biased they are, but they seem fine with the easy submission process and the assistance of student editors who correct grammatical mistakes and citation errors. They have come to accept the fact that they are sacrificing quality for quantity when they enter into a submission pool of dozens of journals, even though their participation in this process ultimately leads to the devaluation of their work.

Indeed the law review submissions cycle, while stressful because the window is so short, is relatively simple and straightforward. There is no need to shop around for the appropriate journal. The law review rankings system has made that decision for you. No need to wait for an editorial board of peers with similar aptitudes to decide whether your article is worthy of publication because all the student editors at the journals you submitted to want to see is your CV.

Upon signing an acceptance with a journal, authors are restricted from submitting their articles to any other journal, closing the door to other opportunities for publication of that work. Pre-print publication and self-archiving, however, are excellent ways for authors to share their work, garner interest, and perhaps even start to collect citations before the journal issue is released. But the ease with which legal scholars navigate such a system, and its lack of accountability, results in the tradeoffs that have already been discussed.

Here is one common scenario illustrating how these tradeoffs manifest themselves in the real world. Let's say, hypothetically, a legal scholar authors an article that has been accepted to an unnamed law review. The author uploads a pre-print of the article to SSRN, which garners a lot of attention, with thousands of downloads and a maybe few citations within the first few months of posting. The subject of the article was timely and controversial and several news outlets had mentioned the article in news releases. Within a couple of weeks, SSRN sends a congratulatory email to the author for making the top ten downloads list in their respective legal discipline. The article is published and expectations are high on the part of the author for the citation counts to start rolling in. A year or two post-publication, the author checks Westlaw, Heinonline, or Google Scholar in anticipation of seeing dozens (maybe

³³ *Id.*

hundreds!) of citations to the article, but is disappointed to see just a few. Confusion and frustration set in as the author wonders why this article, which seemed to spark people's imaginations, has fallen into obscurity.

The most likely explanation as to the fate of this author's scholarship is that this author was not affiliated with a top-ten law school and the article was not placed in a top-ten journal. Furthermore, and most surprisingly, the odds are very good that despite these results, this author will likely continue to write stellar articles only to submit them to law reviews where they will fall into obscurity.

Perhaps legal scholars need as much reform as law reviews and the legal scholarship rankings system. However, the current reality is that the law review publishing and scholarly rankings systems benefit legal scholars as much as it punishes them. On the one hand, they are virtually guaranteed placement of their work in some law review, even if it is not the one of their choosing. On the other hand, this ease of publishing mutes their influence among their peers and across the disciplines. Until legal scholars are willing to either push for reform in law review publishing, or take the risk of publishing outside of law reviews, legal scholarship will remain in the lower tier for impact among the disciplines.

Reforming Promotion and Tenure

Reforming faculty scholarship requirements in the promotion and tenure process would arguably pose the greatest challenge to law schools. Each institution creates its own set of policies to follow, but by in large, law review publishing is recognized as the cornerstone of scholarly achievement. There is a significant generation gap between the law review publishing experiences of tenure committees and the realities of newer publishing paradigms of the newer faculty under their review.

Newer faculty may perceive their author rankings as having a greater influence on promotion and tenure decisions than they actually do, but they also know they have no choice but to publish in law reviews if they are to receive tenure. There is a perception that the more they publish, the more they will be recognized as experts in their field, which in turn leads to more citations and higher rankings. In the current system, nothing could be further from the truth. There is little evidence to suggest that productive faculty get more citations. In fact, a proliferation of poor quality articles in low-ranked law reviews may have the affect of diluting an author's scholarship and actually lowering their rank.

Law school culture will continue to be steeped in tradition and adhere to the status quo, as long as administrations and tenure committees ignore the realities of the modern scholar. Allowing pre-tenure faculty the freedom to publish where they choose as long as they are publishing in reputable journals, and accounting for scholarship in alternative platforms is the future. How long it takes to get there is up to the legal academy and its tolerance, or intolerance for change.

What Authors Can Do Going Forward

Highly ranked scholars at top law schools will continue to receive top honors for their scholarship. It is the scholars at lower ranked law schools and those on the cusp of higher rankings who wish to improve their scholarly impact that are the focus of this article. The call for reform for law reviews, legal scholarship rankings, and the promotion and tenure process has never been louder. Though the path to reform, or the rejection of the status quo altogether may seem like risky endeavors for scholars at this level, in actuality there is little risk and much reward for those with the energy and talent to pursue new opportunities outside of the traditional norms of legal scholarship. The current system is unlikely to change in the near future and scholars must take matters into their own hands if they are to elevate the impact of their work.

It may take another generation for pre-tenured faculty to have the option of rejecting law reviews as a platform for their work if they are to achieve the standard hallmarks of promotion and tenure. Tenured faculty are in a much better position to pursue non-law review publishing options and may want to think about ignoring their rankings, as chasing higher rankings will not help them pursue their goals.

Breaking out of the law review cycle is a risky endeavor for a risk-averse culture, but it can be done. Authors who wish to break out of the law review cycle and expand the reach and influence of their work would benefit from expanding their network of colleagues in other disciplines. Learning the writing style of scientists would also be beneficial. Adjunct faculty appointments in other colleges and departments can lead to collaborative projects with non-law publishers, opening doors to publishing opportunities in a multitude of formats.

Authors must also learn to appreciate the importance of controlling their online presence. The data associated with their online profiles on SSRN, Google Scholar, Heinonline, and other platforms is a kind of reputational currency and must be carefully curated.

Conclusion

Legal Scholars have much to offer to the scholarly record of academic disciplines. Yet the publishing platform available to legal scholars, i.e, law reviews fail them miserably in term of marking, dissemination, and prestige. Legal scholars in the upper echelons of the top law schools have nothing to worry about. The classist biases inherent in the rankings of law faculties and law reviews will keep them in the top tier, regardless of the efforts of their peers at lower-ranked schools to improve upon their own rankings.

The good news is that legal scholars at lower ranked schools can increase the impact of their scholarship, by rejecting the norms of law review publishing and embracing alternative forms of scholarship, while collaborating with colleagues in the sciences, and writing with abandon on the topics that interest them. Legal scholars have a natural talent for engaging narrative and persuasive argument. The rest of academia would welcome these talents wholeheartedly.